THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.15011 of 2006

21st July 2006

Between:

1. The Commissioner of Intermediate Education, Andhra Pradesh, Hyderabad.

And two others.

...PETITIONERS

AND

P.Thota Rao, S/o.Suryanarayana, 58 years, Senior Assistant, Government Junior College, Naupada, Srikakulam District.

...RESPONDENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

And

THE HON'BLE MR JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO.15011 of 2006

ORDER: (Per the Hon'ble Mr Justice Ramesh Ranganathan)

Aggrieved by the order of the Andhra Pradesh Administrative Tribunal, Hyderabad ('the Tribunal' for brevity) in O.A.No.708 of 2006 dated 21.06.2006, the Commissioner of Intermediate Education has filed this Writ Petition. The Tribunal, by order dated 21.06.2006, made the interim stay absolute and dismissed V.M.A.No.418 of 2006 inasmuch as the Enquiry Officer had not conducted enquiry in accordance with the C.C.A. Rules ('the Rules' for brevity). None of the witnesses were examined, no documents were marked and no opportunity was given to the respondent-employee to defend himself. Several other contentions were raised by the applicant in the O.A. The only answer given thereto by the petitioners herein, in their counter affidavit before the Tribunal, was that a questionnaire was served on the applicant and basing on the answers given by him, the Enquiry Officer submitted a report and thereafter punishment was imposed.

The Tribunal has held that this was insufficient compliance with principles of natural justice.

Learned Government Pleader for Higher Education would submit that in reply to the questionnaire, the respondent-employee had admitted his guilt, that it was, therefore, open to the authorities concerned to straight away impose punishment and it was wholly unnecessary for an enquiry to be held in this regard.

A copy of the questionnaire was placed before us. On a bare perusal of the said questionnaire, it is clear that the respondent-applicant had given his explanation to the questions put to him. There is neither categorical nor an unequivocal admission of guilt by him. In the absence of admission of guilt by the delinquent-employee, it was incumbent upon the authorities concerned to conduct a departmental enquiry in compliance with principles of natural justice for imposition of a major penalty. Since, no enquiry, in accordance with the Rules, has been held in this regard, the order of the Tribunal making the interim stay absolute cannot be faulted.

Learned Government Pleader for Higher Education would submit that no useful purpose would be served in keeping the O.A. pending

and instead the Writ Petition and the O.A. could be disposed of setting aside the order of punishment leaving it open to the petitioners herein to conduct an enquiry and take action against the respondent-applicant in accordance with law. She would further submit that the other contentions, which weighed with the Tribunal in granting an interim order, mainly on the competence of the authorities concerned were also erroneous.

These submissions of the learned Government Pleader merit acceptance. The impugned order of punishment is set aside leaving it open to the authorities concerned to conduct an Enquiry and take action against the respondent-applicant in accordance with the prescribed Rules in this regard. Since the order of punishment is set aside, on the short ground that no enquiry as prescribed under the Rules has been held, it is wholly unnecessary for us to examine the other questions regarding to the competence of the authorities to impose the punishment. All these questions are therefore left open.

The Writ Petition is accordingly disposed of, O.A.No.708 of 2006 is allowed and the order of punishment is set aside leaving it open to the petitioners herein to conduct an enquiry in accordance with the Rules. No costs.

_____

(B.PRAKASH RAO, J)

_____

(RAMESH RANGANATHAN, J)

21st July 2006

Note: CC by one week
B/O
RRB

-